

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT NEW YORK

----- X
DON RUPPEL, individually and on behalf of all :
others similarly situated, :

Plaintiff, :

- against - :

CONSUMERS UNION OF UNITED STATES, :
INC., :

Defendant. :
----- X

Civil Action No.: 16-cv-2444 (KMK)

ECF Case

**NOTICE OF
MOTION TO DISMISS**

ORAL ARGUMENT REQUESTED

PLEASE TAKE NOTICE that upon the accompanying declaration of Sean M. Sullivan, sworn to August 12, 2016, and the exhibits annexed thereto, the accompanying Memorandum of Law, and all prior pleadings and proceedings heretofore had herein, the undersigned will move this Court, before the Honorable Kenneth M. Karas, United States District Judge, Southern District of New York on a date and at a time designated by the Court for an order pursuant to Rule 12(b)(1) and 12(b)(6) of the Federal Rules of Civil Procedure dismissing the class action complaint of Don Ruppel, and for such other and further relief as the Court shall deem just and proper.

///

PLEASE TAKE FURTHER NOTICE that, pursuant to the scheduling order entered by this Court, opposing papers, if any, must be served upon the undersigned on or before September 12, 2016, and and reply papers, if any, must be served on or before September 26, 2016.

Dated: New York, New York
September 26, 2016

Respectfully submitted,

DAVIS WRIGHT TREMAINE LLP

By: s/ Sharon L. Schneier
Sharon L. Schneier

1251 Avenue of the Americas, 21st Floor
New York, NY 10020-1104
(212) 489-8230 Phone
(212) 489-8340 Fax
sharonschneier@dwt.com

Sean M. Sullivan (admitted *pro hac vice*)
865 South Figueroa Street, 24th Floor
Los Angeles, CA 90017-2566
(213) 633-6800 Phone
(213) 633-6899 Fax
seansullivan@dwt.com

*Attorneys for Defendant
Consumers Union Of United States, Inc.*